

AN ACT

relating to the continuation and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel, and the functions of the independent organization certified for the ERCOT power region; increasing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 12.005, Utilities Code, is amended to read as follows:

Sec. 12.005. APPLICATION OF SUNSET ACT. The Public Utility Commission of Texas is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter or by Chapter 39, the commission is abolished ~~[and this title expires]~~ September 1, 2029 ~~[2023]~~.

SECTION 2. Section 12.059, Utilities Code, is amended to read as follows:

Sec. 12.059. TRAINING PROGRAM FOR COMMISSIONERS. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a ~~[Before a commissioner may assume the commissioner's duties and before the commissioner may be confirmed by the senate, the commissioner must complete at least one course of the]~~ training program that complies with ~~[established under]~~ this section.

(b) The ~~[A]~~ training program must ~~[established under this~~

1 ~~section shall]~~ provide the person with information [~~to the~~
2 ~~commissioner]~~ regarding:

3 (1) the law governing [~~enabling legislation that~~
4 ~~created the]~~ commission operations [~~and its policymaking body to~~
5 ~~which the commissioner is appointed to serve]~~;

6 (2) the programs, functions, rules, and budget of
7 [~~operated by]~~ the commission;

8 (3) the scope [~~role and functions]~~ of and limitations
9 on the rulemaking authority of the commission;

10 (4) the results [~~rules]~~ of the most recent formal
11 audit of the commission [~~with an emphasis on the rules that relate~~
12 ~~to disciplinary and investigatory authority]~~;

13 (5) the requirements of:

14 (A) laws relating to open meetings, public
15 information, administrative procedure, and disclosing conflicts of
16 interest; and

17 (B) other laws applicable to members of a state
18 policy-making body in performing their duties [~~current budget for~~
19 ~~the commission]~~; and

20 (6) [~~the results of the most recent formal audit of the~~
21 ~~commission,~~

22 [~~(7) the requirements of Chapters 551, 552, and 2001,~~
23 ~~Government Code,~~

24 [~~(8) the requirements of the conflict of interest laws~~
25 ~~and other laws relating to public officials, and~~

26 [~~(9)] any applicable ethics policies adopted by the~~

27 commission or the Texas Ethics Commission.

1 (c) A person [~~who is~~] appointed to the commission is
2 entitled to reimbursement, as provided by the General
3 Appropriations Act, for the travel expenses incurred in attending
4 the training program regardless of whether the attendance at the
5 program occurs before or after the person qualifies for office.

6 (d) The executive director of the commission shall create a
7 training manual that includes the information required by
8 Subsection (b). The executive director shall distribute a copy of
9 the training manual annually to each member of the commission. Each
10 member of the commission shall sign and submit to the executive
11 director a statement acknowledging that the member received and has
12 reviewed the training manual.

13 SECTION 3. Section 12.202, Utilities Code, is amended by
14 adding Subsections (a-1) and (a-2) to read as follows:

15 (a-1) The policies adopted under this section must require
16 the agenda for each regular commission meeting to include public
17 testimony as a meeting agenda item and allow members of the public
18 to comment on:

19 (1) each meeting agenda item unrelated to a contested
20 case; and

21 (2) other matters under the commission's jurisdiction.

22 (a-2) The commission may prohibit public comment at a
23 regular commission meeting on a meeting agenda item related to a
24 contested case.

25 SECTION 4. Section 12.203, Utilities Code, is amended to
26 read as follows:

27 Sec. 12.203. BIENNIAL REPORT. (a) Not later than January

1 15 of each odd-numbered year, the commission shall prepare a
2 written report that includes:

3 (1) suggestions regarding modification and
4 improvement of the commission's statutory authority and for the
5 improvement of utility regulation in general, including the
6 regulation of water and sewer service under Chapter 13, Water Code,
7 that the commission considers appropriate for protecting and
8 furthering the interest of the public;

9 (2) a report on the scope of competition in the
10 electric and telecommunications markets that includes:

11 (A) an assessment of:

12 (i) the effect of competition and industry
13 restructuring on customers in both competitive and noncompetitive
14 electric markets; and

15 (ii) the effect of competition on the rates
16 and availability of electric services for residential and small
17 commercial customers;

18 (B) an assessment of the effect of competition
19 on:

20 (i) customers in both competitive and
21 noncompetitive telecommunications markets, with a specific focus
22 on rural markets; and

23 (ii) the rates and availability of
24 telecommunications services for residential and business
25 customers, including any effects on universal service; and

26 (C) a summary of commission action over the
27 preceding two years that reflects changes in the scope of

1 competition in regulated electric and telecommunications markets;
2 and

3 (3) recommendations for legislation that the
4 commission determines appropriate to promote the public interest in
5 the context of partially competitive electric and
6 telecommunications markets.

7 (b) A telecommunications utility, as defined by Section
8 51.002, shall cooperate with the commission as necessary for the
9 commission to satisfy the requirements of this section.

10 SECTION 5. Subchapter E, Chapter 12, Utilities Code, is
11 amended by adding Section 12.205 to read as follows:

12 Sec. 12.205. STRATEGIC COMMUNICATIONS PLAN. The commission
13 shall:

14 (1) develop an agency-wide plan for:

15 (A) improving the effectiveness of commission
16 communications with the public, market participants, and other
17 relevant audiences; and

18 (B) responding to changing communications needs;

19 (2) include in the plan required by Subdivision (1)
20 goals, objectives, and metrics to assess commission efforts; and

21 (3) update the plan required by Subdivision (1) at
22 least once every two years.

23 SECTION 6. Section 13.002, Utilities Code, is amended to
24 read as follows:

25 Sec. 13.002. APPLICATION OF SUNSET ACT. The Office of
26 Public Utility Counsel is subject to Chapter 325, Government Code
27 (Texas Sunset Act). Unless continued in existence as provided by

1 that chapter, the office is abolished [~~and this chapter expires~~]
2 September 1, 2029 [~~2023~~].

3 SECTION 7. Sections 15.023(b-1) and (f), Utilities Code,
4 are amended to read as follows:

5 (b-1) Notwithstanding Subsection (b), the penalty for a
6 violation of a voluntary mitigation plan entered into under
7 Subsection (f) or of a provision of Section 35.0021 or 38.075 may be
8 in an amount not to exceed \$1,000,000 for a violation. Each day a
9 violation continues or occurs is a separate violation for purposes
10 of imposing a penalty.

11 (f) The commission and a person may develop and enter into a
12 voluntary mitigation plan relating to a violation of Section 39.157
13 or rules adopted by the commission under that section. The
14 commission may approve the plan only if the commission determines
15 that the plan is in the public interest. The voluntary mitigation
16 plan must be reviewed at least once every two years and not later
17 than the 90th day after the implementation date of a wholesale
18 market design change. As part of the review, the commission must
19 determine whether the voluntary mitigation plan remains in the
20 public interest. If the commission determines that the voluntary
21 mitigation plan is no longer in the public interest, the commission
22 and the person must agree to a modification of the plan or the
23 commission must terminate the plan. Adherence [~~If the commission~~
24 ~~and a person enter into a voluntary mitigation plan, adherence~~] to
25 the plan must be considered in determining whether a violation
26 occurred and, if so, the penalty to be assessed [~~constitutes an~~
27 ~~absolute defense against an alleged violation with respect to~~

1 ~~activities covered by the plan]~~.

2 SECTION 8. Subchapter A, Chapter 35, Utilities Code, is
3 amended by adding Section 35.0022 to read as follows:

4 Sec. 35.0022. SERVICE INTERRUPTION NOTIFICATIONS. (a)
5 This section applies only to a provider of electric generation
6 service described by Section 35.0021(a).

7 (b) The commission by rule shall require a provider of
8 electric generation service to provide to the independent
9 organization certified under Section 39.151 for the ERCOT power
10 region the reason for each unplanned service interruption. Not
11 later than the third business day after the service is restored, the
12 independent organization shall include the reason for each
13 unplanned service interruption in a publicly available report
14 published on the independent organization's Internet website.

15 SECTION 9. Section 35.004, Utilities Code, is amended by
16 amending Subsection (d) and adding Subsections (d-1), (d-2), and
17 (d-3) to read as follows:

18 (d) The commission shall price wholesale transmission
19 services within ERCOT based on the postage stamp method of pricing
20 under which a transmission-owning utility's rate is based on the
21 ERCOT utilities' combined annual costs of transmission, other than
22 costs described by Subsections (d-2) and (d-3), divided by the
23 total demand placed on the combined transmission systems of all
24 such transmission-owning utilities within a power region. An
25 electric utility subject to the freeze period imposed by Section
26 39.052 may treat transmission costs in excess of transmission
27 revenues during the freeze period as an expense for purposes of

1 determining annual costs in the annual report filed under Section
2 39.257. Notwithstanding Section 36.201, the commission may approve
3 wholesale rates that may be periodically adjusted to ensure timely
4 recovery of transmission investment. Notwithstanding Section
5 36.054(a), if the commission determines that conditions warrant the
6 action, the commission may authorize the inclusion of construction
7 work in progress in the rate base for transmission investment
8 required by the commission under Section 39.203(e).

9 (d-1) The commission by rule shall establish a reasonable
10 allowance for transmission-owning utility costs incurred to
11 interconnect generation resources directly with the ERCOT
12 transmission system at transmission voltage. The allowance must
13 take into account:

14 (1) the potential to reduce the costs to consumers of
15 generation interconnection;

16 (2) historical generation interconnection costs; and

17 (3) any other factor that the commission considers
18 reasonable to accomplish the goal of this subsection.

19 (d-2) Costs in excess of the transmission-owning utility
20 allowance provided by Subsection (d-1) incurred to interconnect
21 generation resources with the ERCOT transmission system must be
22 directly assigned to and collected from the generation resource
23 interconnecting through the facilities.

24 (d-3) Not later than September 1 of every fifth year, the
25 commission shall review and may adjust the allowance provided by
26 Subsection (d-1) to account for inflation or supply chain issues.

27 SECTION 10. Section 36.053(d), Utilities Code, is amended

1 to read as follows:

2 (d) If the commission issues a certificate of convenience
3 and necessity or if the commission, acting under the authority
4 formerly provided by Section 39.203(e), ordered [~~orders~~] an
5 electric utility or a transmission and distribution utility to
6 construct or enlarge transmission or transmission-related
7 facilities to facilitate meeting the goal for generating capacity
8 from renewable energy technologies under former Section 39.904(a),
9 the commission shall find that the facilities are used and useful to
10 the utility in providing service for purposes of this section and
11 are prudent and includable in the rate base, regardless of the
12 extent of the utility's actual use of the facilities.

13 SECTION 11. Section 37.0541, Utilities Code, is amended to
14 read as follows:

15 Sec. 37.0541. CONSOLIDATION OF CERTAIN PROCEEDINGS. The
16 commission shall consolidate the proceeding on an application to
17 obtain or amend a certificate of convenience and necessity for the
18 construction of a transmission line with the proceeding on another
19 application to obtain or amend a certificate of convenience and
20 necessity for the construction of a transmission line if it is
21 apparent from the applications or a motion to intervene in either
22 proceeding that the transmission lines that are the subject of the
23 separate proceedings share a common point of interconnection.
24 [~~This section does not apply to a proceeding on an application for a~~
25 ~~certificate of convenience and necessity for a transmission line to~~
26 ~~serve a competitive renewable energy zone as part of a plan~~
27 ~~developed by the commission under Section 39.904(g)(2).~~]

1 SECTION 12. Sections 37.056(c) and (d), Utilities Code, are
2 amended to read as follows:

3 (c) The commission shall grant each certificate on a
4 nondiscriminatory basis after considering:

5 (1) the adequacy of existing service;

6 (2) the need for additional service;

7 (3) the effect of granting the certificate on the
8 recipient of the certificate and any electric utility serving the
9 proximate area; and

10 (4) other factors, such as:

11 (A) community values;

12 (B) recreational and park areas;

13 (C) historical and aesthetic values;

14 (D) environmental integrity; and

15 (E) the probable improvement of service or
16 lowering of cost to consumers in the area if the certificate is
17 granted, including any potential economic or reliability benefits
18 associated with dual fuel and fuel storage capabilities in areas
19 outside the ERCOT power region~~, and~~

20 ~~[(F) to the extent applicable, the effect of~~
21 ~~granting the certificate on the ability of this state to meet the~~
22 ~~goal established by Section 39.904(a) of this title].~~

23 (d) The commission by rule shall establish criteria, in
24 addition to the criteria described by Subsection (c), for granting
25 a certificate for a transmission project that serves the ERCOT
26 power region and~~[,]~~ that is not necessary to meet state or federal
27 reliability standards~~, and that is not included in a plan~~

1 ~~developed under Section 39.904(g)]~~. The criteria must include a
2 comparison of the estimated cost of the transmission project for
3 consumers and the estimated congestion cost savings for consumers
4 that may result from the transmission project, considering both
5 current and future expected congestion levels and the transmission
6 project's ability to reduce those congestion levels. The
7 commission shall include with its decision on an application for a
8 certificate to which this subsection applies findings on the
9 criteria.

10 SECTION 13. Subchapter D, Chapter 38, Utilities Code, is
11 amended by adding Section 38.078 to read as follows:

12 Sec. 38.078. CIRCUIT SEGMENTATION STUDY AND COST RECOVERY.

13 (a) Not later than September 15, 2023, the commission shall direct
14 each transmission and distribution utility to perform a circuit
15 segmentation study.

16 (b) A circuit segmentation study must:

17 (1) use an engineering analysis to examine whether and
18 how the transmission and distribution utility's transmission and
19 distribution systems can be segmented and sectionalized to manage
20 and rotate outages more evenly across all customers and circuits,
21 while maintaining the protections offered to critical facilities;

22 (2) include an engineering analysis of the feasibility
23 of using sectionalization, automated reclosers, and other
24 technology to break up the circuits that host significant numbers
25 of critical facilities into smaller segments for outage management
26 purposes to enable more granular and flexible outage management;

27 (3) identify feeders with critical facilities that, if

1 equipped with facility-specific backup power systems and
2 segmentation, can enhance the utility's outage management
3 flexibility; and

4 (4) include an estimate of the time, capital cost, and
5 expected improvements to load-shed management associated with the
6 circuit segmentation study.

7 (c) Each transmission and distribution utility shall submit
8 a report of the conclusions of the utility's study to the commission
9 not later than September 1, 2024.

10 (d) The commission shall review each circuit segmentation
11 study not later than March 15, 2025.

12 SECTION 14. Section 39.002, Utilities Code, as amended by
13 Chapters 908 (H.B. 4492) and 950 (S.B. 1580), Acts of the 87th
14 Legislature, Regular Session, 2021, is reenacted and amended to
15 read as follows:

16 Sec. 39.002. APPLICABILITY. This chapter, other than
17 Sections 39.151, 39.1516, 39.155, 39.157(e), 39.159, 39.160,
18 39.203, [~~39.904,~~] 39.9051, 39.9052, and 39.914(e), and Subchapters
19 M and N, does not apply to a municipally owned utility or an
20 electric cooperative. Sections 39.157(e) and [~~7~~] 39.203 [~~7~~ and
21 ~~39.904, however,~~] apply only to a municipally owned utility or an
22 electric cooperative that is offering customer choice. If there is
23 a conflict between the specific provisions of this chapter and any
24 other provisions of this title, except for Chapters 40 and 41, the
25 provisions of this chapter control.

26 SECTION 15. Section 39.151, Utilities Code, is amended by
27 amending Subsections (d), (g-1), and (g-6) and adding Subsection

1 (g-7) to read as follows:

2 (d) The commission shall adopt and enforce rules relating to
3 the reliability of the regional electrical network and accounting
4 for the production and delivery of electricity among generators and
5 all other market participants, or may delegate those
6 responsibilities to an independent organization [~~responsibilities~~
7 ~~for adopting or enforcing such rules. Rules adopted by an~~
8 ~~independent organization and enforcement actions taken by the~~
9 ~~organization under delegated authority from the commission are~~
10 ~~subject to commission oversight and review and may not take effect~~
11 ~~before receiving commission approval~~]. An independent organization
12 certified by the commission is directly responsible and accountable
13 to the commission. The commission has complete authority to
14 oversee and investigate the independent organization's finances,
15 budget, and operations as necessary to ensure the organization's
16 accountability and to ensure that the organization adequately
17 performs the organization's functions and duties. The independent
18 organization shall fully cooperate with the commission in the
19 commission's oversight and investigatory functions. The
20 commission may take appropriate action against an independent
21 organization that does not adequately perform the organization's
22 functions or duties or does not comply with this section, including
23 decertifying the organization or assessing an administrative
24 penalty against the organization. The commission by rule shall
25 adopt procedures governing decertification of an independent
26 organization, selecting and certifying a successor organization,
27 and transferring assets to the successor organization to ensure

1 continuity of operations in the region. The commission may not
2 implement, by order or by rule, a requirement that is contrary to an
3 applicable federal law or rule.

4 (g-1) The [~~independent organization's~~] bylaws of an
5 independent organization certified for the ERCOT power region [~~or~~
6 ~~protocols~~] must be approved by [~~the commission~~] and [~~must~~] reflect
7 the input of the commission. The bylaws must require that every
8 member of the governing body be a resident of this state and must
9 prohibit a legislator from serving as a member. The governing body
10 must be composed of:

11 (1) two members [~~the chairman~~] of the commission as
12 [~~an~~] ex officio nonvoting members:

13 (A) one of whom must be the presiding officer of
14 the commission; and

15 (B) one of whom must be designated by the
16 presiding officer of the commission to serve a one-year term on the
17 governing body [~~member~~];

18 (2) the counsellor as an ex officio voting member
19 representing residential and small commercial consumer interests;

20 (3) the chief executive officer of the independent
21 organization as an ex officio nonvoting member; and

22 (4) eight members selected by the selection committee
23 under Section 39.1513 with executive-level experience in any of the
24 following professions:

25 (A) finance;

26 (B) business;

27 (C) engineering, including electrical

1 engineering;

2 (D) trading;

3 (E) risk management;

4 (F) law; or

5 (G) electric market design.

6 (g-6) In this subsection, a reference to a protocol includes
7 a rule. Protocols adopted by an independent organization and
8 enforcement actions taken by the organization under delegated
9 authority from the commission are subject to commission oversight
10 and review and may not take effect before receiving commission
11 approval. To maintain certification as an independent organization
12 under this section, the organization's governing body must
13 establish and implement a formal process for adopting new protocols
14 or revisions to existing protocols. The process must require that
15 new or revised protocols may not take effect until the commission
16 approves a market impact statement describing the new or revised
17 protocols. The commission may approve, reject, or remand with
18 suggested modifications to the independent organization's
19 governing body protocols adopted by the organization.

20 (g-7) The presiding officer of the commission shall
21 designate commissioners to serve terms on the independent
22 organization's governing body under Subsection (g-1)(1)(B) in the
23 order in which the commissioners were first appointed to the
24 commission. A commissioner may not serve an additional term until
25 each commissioner has served a term.

26 SECTION 16. Section 39.1511, Utilities Code, is amended by
27 amending Subsection (a) and adding Subsection (a-1) to read as

1 follows:

2 (a) Meetings of the governing body of an independent
3 organization certified under Section 39.151 and meetings of a
4 subcommittee that includes a member of the governing body must be
5 open to the public. The bylaws of the independent organization and
6 the rules of the commission may provide for the governing body or
7 subcommittee to enter into executive session closed to the public
8 only to address risk management or a matter that the independent
9 organization would be authorized to consider in a closed meeting if
10 the independent organization were governed under Chapter 551,
11 Government Code [~~sensitive matters such as confidential personnel~~
12 ~~information, contracts, lawsuits, competitively sensitive~~
13 ~~information, or other information related to the security of the~~
14 ~~regional electrical network~~].

15 (a-1) An independent organization's governing body or a
16 subcommittee may adopt a policy allowing the governing body or
17 subcommittee to enter into an executive session closed to the
18 public and commissioners, including the commissioners serving as ex
19 officio nonvoting members, only to address a contested case, as
20 defined by Section 2001.003, Government Code, or a personnel matter
21 that is unrelated to members of the governing body.

22 SECTION 17. Subchapter D, Chapter 39, Utilities Code, is
23 amended by adding Section 39.1514 to read as follows:

24 Sec. 39.1514. COMMISSION DIRECTIVES TO INDEPENDENT
25 ORGANIZATION. (a) The commission may not use a verbal directive
26 to direct an independent organization certified under Section
27 39.151 to take an official action. The commission may direct the

1 organization to take an official action only through:

2 (1) a contested case;

3 (2) rulemaking; or

4 (3) a memorandum or written order adopted by a
5 majority vote.

6 (a-1) The commission must use a contested case or rulemaking
7 process to direct an independent organization certified under
8 Section 39.151 to take an official action that will create a new
9 cost or fee, increase an existing cost or fee, or impose significant
10 operational obligations on an entity.

11 (b) The commission by rule shall:

12 (1) specify the types of directives the commission may
13 issue through a contested case, rulemaking, memorandum, or written
14 order, in accordance with Subsection (a-1);

15 (2) require that proposed commission directives be
16 included as an item on a commission meeting agenda and require the
17 commission to allow members of the public an opportunity to comment
18 on the agenda item; and

19 (3) establish a reasonable timeline for the release
20 before a commission meeting of discussion materials relevant to
21 any proposed commission directives included as agenda items for
22 that meeting.

23 (c) Notwithstanding another provision of this section, the
24 commission may use a verbal directive to direct an independent
25 organization to take an official action in an urgent or emergency
26 situation that poses an imminent threat to public health, public
27 safety, or the reliability of the power grid. If the commission

1 uses a verbal directive, the commission shall provide written
2 documentation of the directive to the independent organization not
3 later than 72 hours after the urgent or emergency situation ends.
4 The commission by rule shall establish criteria for determining
5 whether a situation is urgent or an emergency under this subsection
6 and establish a process by which the commission will issue
7 directives to the independent organization under this subsection.

8 SECTION 18. Section 39.1515, Utilities Code, is amended by
9 amending Subsections (a) and (f) and adding Subsection (i) to read
10 as follows:

11 (a) An independent organization certified under Section
12 39.151 shall contract with an entity selected by the commission to
13 act as the commission's wholesale electric market monitor to detect
14 and prevent market manipulation strategies, ~~and~~ recommend
15 measures to enhance the efficiency of the wholesale market, and
16 provide independent analysis of any material changes proposed to
17 the wholesale market. The commission may not restrict the market
18 monitor from appearing or speaking before or providing analysis to
19 the legislature. The independent organization may not
20 substantially modify the market monitor's contract unless the
21 modification is approved by a majority of the commissioners.

22 (f) The market monitor immediately shall report in writing
23 directly to the commission and commission staff all ~~any~~ potential
24 market manipulations and all ~~any~~ discovered or potential
25 violations of commission rules or rules of the independent
26 organization.

27 (i) Not later than December 1 of each year, the commission

1 shall submit a report to the legislature that describes for the
2 12-month period preceding the report's submission:

3 (1) the number of instances in which the market
4 monitor reported potential market manipulation to the commission or
5 commission staff;

6 (2) the statutes, commission rules, and rules of the
7 independent organization alleged to have been violated by the
8 reported entities; and

9 (3) the number of instances reported under Subdivision
10 (1) for which the commission instituted a formal investigation on
11 its own motion or commission staff initiated an enforcement action.

12 SECTION 19. Section 39.155(d), Utilities Code, is amended
13 to read as follows:

14 (d) In a qualifying power region, the report [~~reports~~]
15 required by Subsection (c) [~~Subsections (b) and (c)~~] shall be
16 submitted by the independent organization or organizations having
17 authority over the power region or discrete areas thereof.

18 SECTION 20. Section 39.157(f), Utilities Code, is amended
19 to read as follows:

20 (f) Following review of the annual report [~~reports~~]
21 submitted to it under Section 39.155(c) [~~Sections 39.155(b) and~~
22 ~~(c)~~], the commission shall determine whether specific transmission
23 or distribution constraints or bottlenecks within this state give
24 rise to market power in specific geographic markets in the state.
25 The commission, on a finding that specific transmission or
26 distribution constraints or bottlenecks within this state give rise
27 to market power, may order reasonable mitigation of that potential

1 market power by ordering, under Section 39.203(e), one or more
2 electric utilities or transmission and distribution utilities to
3 construct additional transmission or distribution capacity, or
4 both, subject to the certification provisions of this title.

5 SECTION 21. The heading to Section 39.159, Utilities Code,
6 as added by Chapter 426 (S.B. 3), Acts of the 87th Legislature,
7 Regular Session, 2021, is amended to read as follows:

8 Sec. 39.159. POWER REGION RELIABILITY AND DISPATCHABLE
9 GENERATION.

10 SECTION 22. Section 39.159, Utilities Code, as added by
11 Chapter 426 (S.B. 3), Acts of the 87th Legislature, Regular
12 Session, 2021, is amended by adding Subsections (d) and (e) to read
13 as follows:

14 (d) The commission shall require the independent
15 organization certified under Section 39.151 for the ERCOT power
16 region to develop and implement an ancillary services program to
17 procure dispatchable reliability reserve services on a day-ahead
18 and real-time basis to account for market uncertainty. Under the
19 required program, the independent organization shall:

20 (1) determine the quantity of services necessary based
21 on historical variations in generation availability for each season
22 based on a targeted reliability standard or goal, including
23 intermittency of non-dispatchable generation facilities and forced
24 outage rates, for dispatchable generation facilities;

25 (2) develop criteria for resource participation that
26 require a resource to:

27 (A) be capable of running for at least four hours

1 at the resource's high sustained limit;

2 (B) be online and dispatchable not more than two
3 hours after being called on for deployment; and

4 (C) have the dispatchable flexibility to address
5 inter-hour operational challenges; and

6 (3) reduce the amount of reliability unit commitment
7 by the amount of dispatchable reliability reserve services procured
8 under this section.

9 (e) Notwithstanding Subsection (d)(2)(A), the independent
10 organization certified under Section 39.151 for the ERCOT power
11 region may require a resource to be capable of running for more than
12 four hours as the organization determines is needed.

13 SECTION 23. Subchapter D, Chapter 39, Utilities Code, is
14 amended by adding Sections 39.1591, 39.1592, 39.1593, 39.1594, and
15 39.1595 to read as follows:

16 Sec. 39.1591. REPORT ON DISPATCHABLE AND NON-DISPATCHABLE
17 GENERATION FACILITIES. Not later than December 1 of each year, the
18 commission shall file a report with the legislature that:

19 (1) includes:

20 (A) the estimated annual costs incurred by
21 load-serving entities under this subchapter associated with
22 backing up dispatchable and non-dispatchable electric generation
23 facilities to guarantee that a firm amount of electric energy will
24 be available to the ERCOT power grid; and

25 (B) as calculated by the independent system
26 operator, the cumulative annual costs that have been incurred in
27 the ERCOT market to facilitate the transmission of dispatchable and

1 non-dispatchable electricity to load and to interconnect
2 transmission level loads, including a statement of the total
3 cumulative annual costs and of the cumulative annual costs incurred
4 for each type of activity described by this paragraph; and

5 (2) documents the status of the implementation of this
6 subchapter, including whether the rules and protocols adopted to
7 implement this subchapter have materially improved the
8 reliability, resilience, and transparency of the electricity
9 market.

10 Sec. 39.1592. GENERATION RELIABILITY REQUIREMENTS. (a)
11 This section applies only to an electric generation facility in the
12 ERCOT power region for which a standard generator interconnection
13 agreement is signed on or after January 1, 2027, that has been in
14 operation for at least one year, and that is not a self-generator.

15 (b) Not later than December 1 of each year, an owner or
16 operator of an electric generation facility, other than a battery
17 energy storage resource, shall demonstrate to the commission the
18 ability of the owner or operator's portfolio to operate or be
19 available to operate when called on for dispatch at or above the
20 seasonal average generation capability during the times of highest
21 reliability risk, as determined by the commission, due to low
22 operation reserves, as determined by the commission. The owner or
23 operator must be allowed to meet the performance requirements
24 described by this subsection by supplementing or contracting with
25 on-site or off-site resources, including battery energy storage
26 resources. The commission shall determine the average generation
27 capability based on expected resource availability and

1 seasonal-rated capacity on a standalone basis.

2 (c) The commission shall require the independent
3 organization certified under Section 39.151 for the ERCOT power
4 region to:

5 (1) enforce the requirements of Subsection (b) by
6 imposing financial penalties, as determined by the commission, for
7 failing to comply with the performance requirements described by
8 that subsection; and

9 (2) provide financial incentives, as determined by the
10 commission, for exceeding the performance requirements described
11 by that subsection.

12 (d) The independent organization certified under Section
13 39.151 for the ERCOT power region may not impose penalties under
14 Subsection (c):

15 (1) for resource unavailability due to planned
16 maintenance outages or transmission outages;

17 (2) on resources that are already subject to
18 performance obligations during the highest reliability risk hours
19 under the day-ahead market rules or other ancillary or reliability
20 services established by the commission or the independent
21 organization; or

22 (3) during hours outside a baseline established by the
23 commission that includes morning and evening ramping periods.

24 Sec. 39.1593. COST ALLOCATION OF RELIABILITY SERVICES. (a)
25 The commission shall direct the independent organization certified
26 under Section 39.151 for the ERCOT power region to evaluate with
27 input from a technical advisory committee established under the

1 bylaws of the independent organization that includes market
2 participants whether allocating the costs of ancillary and
3 reliability services, including those procured under Section
4 39.159, as added by Chapter 426 (S.B. 3), Acts of the 87th
5 Legislature, Regular Session, 2021, using a methodology described
6 by Subsection (b) would result in a net savings to consumers in the
7 ERCOT power region compared to allocating all costs of ancillary
8 and reliability services to load to ensure reliability.

9 (b) The commission shall evaluate whether to allocate the
10 cost of ancillary and reliability services:

11 (1) on a semiannual basis among electric generation
12 facilities and load-serving entities in proportion to their
13 contribution to unreliability during the times of highest
14 reliability risk due to low operating reserves by season, as
15 determined by the commission based on a number of hours adopted by
16 the commission for that season; or

17 (2) using another method identified by the commission.

18 (c) The evaluation must:

19 (1) use historical ancillary and reliability services
20 data;

21 (2) consider the causes for ancillary services
22 deployments; and

23 (3) consider the design, procurement, and cost
24 allocation of ancillary services required by Section 35.004(h).

25 (d) Not later than December 1, 2026, the commission shall
26 submit a report on the evaluation to the legislature.

27 Sec. 39.1594. RELIABILITY PROGRAM. (a) Under Section

1 39.159(b), as added by Chapter 426 (S.B. 3), Acts of the 87th
2 Legislature, Regular Session, 2021, or other law, the commission
3 may not require retail customers or load-serving entities in the
4 ERCOT power region to purchase credits designed to support a
5 required reserve margin or other capacity or reliability
6 requirement unless the commission ensures that:

7 (1) the net cost to the ERCOT market of the credits
8 does not exceed \$1 billion annually, less the cost of any interim or
9 bridge solutions that are lawfully implemented, except that the
10 commission may adjust the limit:

11 (A) proportionally according to the highest net
12 peak demand year-over-year with a base year of 2026; and

13 (B) for inflation with a base year of 2026;

14 (2) credits are available only for dispatchable
15 generation;

16 (3) the independent organization certified under
17 Section 39.151 for the ERCOT power region is required to procure the
18 credits centrally in a manner designed to prevent market
19 manipulation by affiliated generation and retail companies;

20 (4) a generator cannot receive credits that exceed the
21 amount of generation bid into the forward market by that generator;

22 (5) an electric generating unit can receive a credit
23 only for being available to perform in real time during the tightest
24 intervals of low supply and high demand on the grid, as defined by
25 the commission on a seasonal basis;

26 (6) a penalty structure is established, resulting in a
27 net benefit to load, for generators that bid into the forward market

1 but do not meet the full obligation;

2 (7) any program reliability standard reasonably
3 balances the incremental reliability benefits to customers against
4 the incremental costs of the program based on an evaluation by the
5 wholesale electric market monitor;

6 (8) a single ERCOT-wide clearing price is established
7 for the program and does not differentiate payments or credit
8 values based on locational constraints;

9 (9) any market changes implemented as a bridge
10 solution for the program are removed not later than the first
11 anniversary of the date the program was implemented;

12 (10) the independent organization certified under
13 Section 39.151 for the ERCOT power region begins implementing real
14 time co-optimization of energy and ancillary services in the ERCOT
15 wholesale market before the program is implemented;

16 (11) all elements of the program are initially
17 implemented on a single starting date;

18 (12) the terms of the program and any associated
19 market rules do not assign costs, credit, or collateral for the
20 program in a manner that provides a cost advantage to load-serving
21 entities who own, or whose affiliates own, generation facilities;

22 (13) secured financial credit and collateral
23 requirements are adopted for the program to ensure that other
24 market participants do not bear the risk of nonperformance or
25 nonpayment; and

26 (14) the wholesale electric market monitor has the
27 authority and necessary resources to investigate potential

1 instances of market manipulation by program participants,
2 including financial and physical actions, and recommend penalties
3 to the commission.

4 (b) This section does not require the commission to adopt a
5 reliability program that requires an entity to purchase capacity
6 credits.

7 (c) The commission and the independent organization
8 certified under Section 39.151 for the ERCOT power region shall
9 consider comments and recommendations from a technical advisory
10 committee established under the bylaws of the independent
11 organization that includes market participants when adopting and
12 implementing a program described by Subsection (a), if any.

13 (d) Before the commission adopts a program described by
14 Subsection (a), the commission shall require the independent
15 organization certified under Section 39.151 for the ERCOT power
16 region and the wholesale electric market monitor to complete an
17 updated assessment on the cost to and effects on the ERCOT market of
18 the proposed reliability program and submit to the commission and
19 the legislature a report on the costs and benefits of continuing the
20 program. The assessment must include:

21 (1) an evaluation of the cost of new entry and the
22 effects of the proposed reliability program on consumer costs and
23 the competitive retail market;

24 (2) a compilation of detailed information regarding
25 cost offsets realized through a reduction in costs in the energy and
26 ancillary services markets and use of reliability unit commitments;

27 (3) a set of metrics to measure the effects of the

1 proposed reliability program on system reliability;

2 (4) an evaluation of the cost to retain existing
3 dispatchable resources in the ERCOT power region;

4 (5) an evaluation of the planned timeline for
5 implementation of real time co-optimization for energy and
6 ancillary services in the ERCOT power region; and

7 (6) anticipated market and reliability effects of new
8 and updated ancillary service products.

9 (e) If the commission adopts a program described by
10 Subsection (a), the commission by rule shall prohibit a generator
11 that receives credits through the program for a dispatchable
12 electric generating unit operated by the generator from
13 decommissioning or removing from service that unit while the
14 generator participates in the program unless the decommissioning or
15 removal from service begins after September 1, 2028, or the
16 commission finds that the decommissioning or removal from service:

17 (1) is required by or is a result of federal law; or

18 (2) would alleviate significant financial hardship
19 for the generator.

20 (f) If the commission adopts a program described by
21 Subsection (a), the wholesale electric market monitor described by
22 Section 39.1515 biennially shall:

23 (1) evaluate the incremental reliability benefits of
24 the program for consumers compared to the costs to consumers of the
25 program and the costs in the energy and ancillary services markets;
26 and

27 (2) report the results of each evaluation to the

1 legislature.

2 Sec. 39.1595. GRID RELIABILITY LEGISLATIVE OVERSIGHT
3 COMMITTEE. (a) In this section, "committee" means the Grid
4 Reliability Legislative Oversight Committee established under this
5 section.

6 (b) The Grid Reliability Legislative Oversight Committee is
7 created to oversee the commission's implementation of legislation
8 related to the regulation of the electricity market in this state
9 enacted by the 87th and 88th Legislatures.

10 (c) The committee is composed of eight members as follows:

11 (1) three members of the senate, appointed by the
12 lieutenant governor;

13 (2) three members of the house of representatives,
14 appointed by the speaker of the house of representatives;

15 (3) the chair of the committee of the senate having
16 primary jurisdiction over matters relating to the generation of
17 electricity; and

18 (4) the chair of the committee of the house having
19 primary jurisdiction over matters relating to the generation of
20 electricity.

21 (d) An appointed member of the committee serves at the
22 pleasure of the appointing official.

23 (e) The committee members described by Subsections (c)(3)
24 and (4) serve as presiding co-chairs.

25 (f) A member of the committee may not receive compensation
26 for serving on the committee but is entitled to reimbursement for
27 travel expenses incurred by the member while conducting the

1 business of the committee as provided by the General Appropriations
2 Act.

3 (g) The committee shall meet at least twice each year at the
4 call of either co-chair and shall meet at other times at the call of
5 either co-chair, as that officer determines appropriate.

6 (h) Chapter 551, Government Code, applies to the committee.

7 SECTION 24. (a) This section takes effect only if the Act
8 of the 88th Legislature, Regular Session, 2023, relating to
9 nonsubstantive additions to and corrections in enacted codes
10 becomes law.

11 (b) Subchapter D, Chapter 39, Utilities Code, is amended by
12 adding Sections 39.166, 39.167, and 39.168 to read as follows:

13 Sec. 39.166. ELECTRIC INDUSTRY REPORT. (a) Not later than
14 January 15 of each odd-numbered year, the commission, in
15 consultation with the independent organization certified under
16 Section 39.151 for the ERCOT power region, shall prepare and submit
17 to the legislature an electric industry report.

18 (b) Each electric industry report submitted under this
19 section must:

20 (1) identify existing and potential transmission and
21 distribution constraints and system needs within the ERCOT power
22 region, alternatives for meeting system needs, and recommendations
23 for meeting system needs;

24 (2) summarize key findings from:

25 (A) the grid reliability assessment conducted
26 under Section 39.165; and

27 (B) the report required by Section 39.9112;

1 (3) outline basic information regarding the electric
2 grid and market in this state, including generation capacity,
3 customer demand, and transmission capacity currently installed on
4 the grid and projected in the future; and

5 (4) be presented in plain language that is readily
6 understandable by a person with limited knowledge of the electric
7 industry.

8 Sec. 39.167. CONFLICTS OF INTEREST REPORT. The commission
9 and the independent organization certified under Section 39.151 for
10 the ERCOT power region annually shall review statutes, rules,
11 protocols, and bylaws that apply to conflicts of interest for
12 commissioners and for members of the governing body of the
13 independent organization and submit to the legislature a report on
14 the effects the statutes, rules, protocols, and bylaws have on the
15 ability of the commission and the independent organization to
16 fulfill their duties.

17 Sec. 39.168. RETAIL SALES REPORT. (a) Each retail electric
18 provider that offers electricity for sale shall report to the
19 commission:

20 (1) its annual retail sales in this state;
21 (2) the annual retail sales of its affiliates by
22 number of customers, kilowatts per hour sold, and revenue from
23 kilowatts per hour sold by customer class; and

24 (3) any other information the commission requires
25 relating to affiliations between retail electric providers.

26 (b) The commission by rule shall prescribe the nature and
27 detail of the reporting requirements. The commission may accept

1 information reported under other law to satisfy the requirements of
2 this section. Information reported under this section is
3 confidential and not subject to disclosure if the information is
4 competitively sensitive information. The commission shall
5 administer the reporting requirements in a manner that ensures the
6 confidentiality of competitively sensitive information.

7 SECTION 25. (a) This section takes effect only if the Act of
8 the 88th Legislature, Regular Session, 2023, relating to
9 nonsubstantive additions to and corrections in enacted codes does
10 not become law.

11 (b) Subchapter D, Chapter 39, Utilities Code, is amended by
12 adding Sections 39.166, 39.167, and 39.168 to read as follows:

13 Sec. 39.166. ELECTRIC INDUSTRY REPORT. (a) Not later than
14 January 15 of each odd-numbered year, the commission, in
15 consultation with the independent organization certified under
16 Section 39.151 for the ERCOT power region, shall prepare and submit
17 to the legislature an electric industry report.

18 (b) Each electric industry report submitted under this
19 section must:

20 (1) identify existing and potential transmission and
21 distribution constraints and system needs within the ERCOT power
22 region, alternatives for meeting system needs, and recommendations
23 for meeting system needs;

24 (2) summarize key findings from:

25 (A) the grid reliability assessment conducted
26 under Section 39.159, as added by Chapter 876 (S.B. 1281), Acts of
27 the 87th Legislature, Regular Session, 2021; and

1 (B) the report required by Section 39.9112;

2 (3) outline basic information regarding the electric
3 grid and market in this state, including generation capacity,
4 customer demand, and transmission capacity currently installed on
5 the grid and projected in the future; and

6 (4) be presented in plain language that is readily
7 understandable by a person with limited knowledge of the electric
8 industry.

9 Sec. 39.167. CONFLICTS OF INTEREST REPORT. The commission
10 and the independent organization certified under Section 39.151 for
11 the ERCOT power region annually shall review statutes, rules,
12 protocols, and bylaws that apply to conflicts of interest for
13 commissioners and for members of the governing body of the
14 independent organization and submit to the legislature a report on
15 the effects the statutes, rules, protocols, and bylaws have on the
16 ability of the commission and the independent organization to
17 fulfill their duties.

18 Sec. 39.168. RETAIL SALES REPORT. (a) Each retail electric
19 provider that offers electricity for sale shall report to the
20 commission:

21 (1) its annual retail sales in this state;

22 (2) the annual retail sales of its affiliates by
23 number of customers, kilowatts per hour sold, and revenue from
24 kilowatts per hour sold by customer class; and

25 (3) any other information the commission requires
26 relating to affiliations between retail electric providers.

27 (b) The commission by rule shall prescribe the nature and

1 detail of the reporting requirements. The commission may accept
2 information reported under other law to satisfy the requirements of
3 this section. Information reported under this section is
4 confidential and not subject to disclosure if the information is
5 competitively sensitive information. The commission shall
6 administer the reporting requirements in a manner that ensures the
7 confidentiality of competitively sensitive information.

8 SECTION 26. Sections 39.203(e) and (i), Utilities Code, are
9 amended to read as follows:

10 (e) The commission may require an electric utility or a
11 transmission and distribution utility to construct or enlarge
12 facilities to ensure safe and reliable service for the state's
13 electric markets and to reduce transmission constraints within
14 ERCOT in a cost-effective manner where the constraints are such
15 that they are not being resolved through Chapter 37 or the ERCOT
16 transmission planning process. [~~The commission shall require an~~
17 ~~electric utility or a transmission and distribution utility to~~
18 ~~construct or enlarge transmission or transmission-related~~
19 ~~facilities for the purpose of meeting the goal for generating~~
20 ~~capacity from renewable energy technologies under Section~~
21 ~~39.904(a).~~] In any proceeding brought under Chapter 37, an
22 electric utility or transmission and distribution utility ordered
23 to construct or enlarge facilities under this subchapter need not
24 prove that the construction ordered is necessary for the service,
25 accommodation, convenience, or safety of the public and need not
26 address the factors listed in Sections 37.056(c)(1)-(3) and (4)(E).
27 Notwithstanding any other law, including Section 37.057, in any

1 proceeding brought under Chapter 37 by an electric utility or a
2 transmission and distribution utility related to an application for
3 a certificate of public convenience and necessity to construct or
4 enlarge transmission or transmission-related facilities under this
5 subsection, the commission shall issue a final order before the
6 181st day after the date the application is filed with the
7 commission. If the commission does not issue a final order before
8 that date, the application is approved.

9 (i) The commission, in cooperation with transmission and
10 distribution utilities and the ERCOT independent system operator,
11 shall study whether existing transmission and distribution
12 planning processes are sufficient to provide adequate
13 infrastructure for seawater desalination projects. If the
14 commission determines that statutory changes are needed to ensure
15 that adequate infrastructure is developed for projects of that
16 kind, the commission shall include recommendations in the report
17 required by Section 12.203 [~~31.003~~].

18 SECTION 27. Section 39.206(q), Utilities Code, is amended
19 to read as follows:

20 (q) The commission shall, in conjunction with the Nuclear
21 Regulatory Commission, investigate the development of a mechanism
22 whereby the State of Texas could ensure that funds for
23 decommissioning will be obtained when necessary in the same manner
24 as if the State of Texas were the licensee under federal law. [~~The~~
25 ~~commission shall file legislative recommendations regarding any~~
26 ~~changes in law that may be necessary to carry out the purposes of~~
27 ~~this subsection prior to January 15, 2009, which may be combined~~

1 ~~with the report required by Section 31.003.]~~

2 SECTION 28. Section 39.402(a), Utilities Code, is amended
3 to read as follows:

4 (a) Until the date on which an electric utility subject to
5 this subchapter is authorized by the commission to implement
6 customer choice, the rates of the utility shall be regulated under
7 traditional cost of service regulation and the utility is subject
8 to all applicable regulatory authority prescribed by this subtitle
9 and Subtitle A, including Chapters 14, 32, 33, 36, and 37. Until the
10 date on which an electric utility subject to this subchapter
11 implements customer choice, the provisions of this chapter, other
12 than this subchapter, Sections 39.1516 [~~39.904~~] and 39.905, and
13 the provisions relating to the duty to obtain a permit from the
14 Texas Commission on Environmental Quality for an electric
15 generating facility and to reduce emissions from an electric
16 generating facility, shall not apply to that utility. That portion
17 of any commission order entered before September 1, 2001, to comply
18 with this subchapter shall be null and void.

19 SECTION 29. Section 39.408(g), Utilities Code, is amended
20 to read as follows:

21 (g) This section expires September 1, 2029 [~~2023~~].

22 SECTION 30. Section 39.452(d), Utilities Code, is amended
23 to read as follows:

24 (d) Until the date on which an electric utility subject to
25 this subchapter implements customer choice:

26 (1) the provisions of this chapter do not apply to that
27 electric utility, other than this subchapter, Sections 39.1516 [~~39.904~~]

1 ~~39.904,~~] and 39.905, the provisions relating to the duty to obtain a
2 permit from the Texas Commission on Environmental Quality for an
3 electric generating facility and to reduce emissions from an
4 electric generating facility, and the provisions of Subchapter G
5 that pertain to the recovery and securitization of hurricane
6 reconstruction costs authorized by Sections 39.458-39.463; and

7 (2) the electric utility is not subject to a rate
8 freeze and, subject to the limitation provided by Subsection (b),
9 may file for rate changes under Chapter 36 and for approval of one
10 or more of the rate rider mechanisms authorized by Sections 39.454
11 and 39.455.

12 SECTION 31. Section 39.4525(g), Utilities Code, is amended
13 to read as follows:

14 (g) This section expires September 1, 2029 [~~2023~~].

15 SECTION 32. Section 39.502(b), Utilities Code, is amended
16 to read as follows:

17 (b) Until the date on which an electric utility subject to
18 this subchapter implements customer choice, the provisions of this
19 chapter, other than this subchapter and Sections 39.1516 [~~39.904,~~]
20 and 39.905, do not apply to that utility.

21 SECTION 33. Section 39.504(g), Utilities Code, is amended
22 to read as follows:

23 (g) This section expires September 1, 2029 [~~2023~~].

24 SECTION 34. Section 39.552(b), Utilities Code, is amended
25 to read as follows:

26 (b) Until the date on which an electric utility subject to
27 this subchapter implements customer choice, the provisions of this

1 chapter, other than this subchapter and Sections 39.1516 [~~39.904~~],
2 and 39.905, do not apply to that utility.

3 SECTION 35. Section 39.9055, Utilities Code, is amended to
4 read as follows:

5 Sec. 39.9055. EXAMINATION OF DEMAND RESPONSE POTENTIAL OF
6 SEAWATER DESALINATION PROJECTS. The commission and the ERCOT
7 independent system operator shall study the potential for seawater
8 desalination projects to participate in existing demand response
9 opportunities in the ERCOT market. To the extent feasible, the
10 study shall determine whether the operational characteristics of
11 seawater desalination projects enable projects of that kind to
12 participate in ERCOT-operated ancillary services markets or other
13 competitively supplied demand response opportunities. The study
14 shall also determine the potential economic benefit to a seawater
15 desalination project if the project is able to reduce its demand
16 during peak pricing periods. The commission shall include the
17 results of the study in the report required by Section 12.203
18 [~~31.003~~].

19 SECTION 36. Section 39.908, Utilities Code, is amended to
20 read as follows:

21 Sec. 39.908. EFFECT OF SUNSET PROVISION. [~~(a)~~] If the
22 commission is abolished under Section 12.005 or other law, the [~~and~~
23 ~~the other provisions of this title expire as provided by Chapter~~
24 ~~325, Government Code (Texas Sunset Act), this subchapter, including~~
25 ~~the provisions of this title referred to in this subchapter,~~
26 ~~continues in full force and effect and does not expire.~~

27 [~~(b) The~~] authorities, duties, and functions of the

1 commission under this chapter shall be performed and carried out by
2 a successor agency to be designated by the legislature before
3 abolishment of the commission or, if the legislature does not
4 designate the successor, by the secretary of state.

5 SECTION 37. Subchapter 2, Chapter 39, Utilities Code, is
6 amended by adding Sections 39.9111, 39.9112, and 39.9113 to read as
7 follows:

8 Sec. 39.9111. RULES RELATED TO RENEWABLE POWER FACILITIES.
9 The commission may adopt rules requiring renewable power facilities
10 to have reactive power control capabilities or any other feasible
11 technology designed to reduce the facilities' effects on system
12 reliability.

13 Sec. 39.9112. REPORT ON TRANSMISSION AND GENERATION
14 CAPACITY. The commission and the independent organization
15 certified under Section 39.151 for the ERCOT power region shall
16 study the need for increased transmission and generation capacity
17 throughout this state and report to the legislature the results of
18 the study and any recommendations for legislation. The report must
19 be filed with the legislature not later than December 31 of each
20 even-numbered year.

21 Sec. 39.9113. RENEWABLE ENERGY CREDITS. To facilitate
22 voluntary contractual obligations and verify claims regarding
23 environmental attributes of renewable energy production in this
24 state, the independent organization certified under Section 39.151
25 for the ERCOT power region shall maintain an accreditation and
26 banking system to award and track voluntary renewable energy
27 credits generated by eligible facilities.

1 SECTION 38. Section 39.916(a), Utilities Code, is amended
2 by amending Subdivision (1) and adding Subdivision (4) to read as
3 follows:

4 (1) "Distributed renewable generation" means electric
5 generation with a capacity of not more than 2,000 kilowatts
6 provided by a renewable energy technology [~~as defined by Section~~
7 ~~39.904,~~] that is installed on a retail electric customer's side of
8 the meter.

9 (4) "Renewable energy technology" means any
10 technology that relies exclusively on an energy source that is
11 naturally regenerated over a short time and is derived from the sun
12 directly or indirectly or from moving water or other natural
13 movements or mechanisms of the environment. The term includes a
14 technology that relies on energy derived from the sun directly, on
15 wind, geothermal, hydroelectric, wave, or tidal energy, or on
16 biomass or biomass-based waste products, including landfill gas.
17 The term does not include a technology that relies on an energy
18 resource derived from a fossil fuel, a waste product from a fossil
19 fuel, or a waste product from an inorganic source.

20 SECTION 39. The heading to Section 39.918, Utilities Code,
21 is amended to read as follows:

22 Sec. 39.918. UTILITY FACILITIES FOR POWER RESTORATION AFTER
23 SIGNIFICANT [~~WIDESPREAD~~] POWER OUTAGE.

24 SECTION 40. Section 39.918, Utilities Code, is amended by
25 amending Subsections (a) and (b) and adding Subsection (a-1) to
26 read as follows:

27 (a) In this section, "significant [~~"widespread~~] power

1 outage" means an event that [~~results in~~]:

2 (1) results in a loss of electric power that:

3 (A) affects a significant number of distribution
4 customers of a transmission and distribution utility[+] and
5 [~~(B)~~] has lasted or is expected to last for at
6 least six [~~eight~~] hours;

7 (B) affects distribution customers of a
8 transmission and distribution utility in an area for which the
9 governor has issued a disaster or emergency declaration;

10 (C) affects distribution customers served by a
11 radial transmission or distribution facility, creates a risk to
12 public health or safety, and has lasted or is expected to last for
13 at least 12 hours; or

14 (D) creates [~~and~~
15 [~~(2)~~] a risk to public health or safety because it
16 affects a critical infrastructure facility that serves the public
17 such as a hospital, health care facility, law enforcement facility,
18 fire station, or water or wastewater facility; or

19 (2) causes the independent system operator to order a
20 transmission and distribution utility to shed load.

21 (a-1) The Texas Division of Emergency Management, the
22 independent organization certified under Section 39.151 for the
23 ERCOT power region, or the executive director of the commission may
24 determine that a power outage other than an outage described by
25 Subsection (a) is a significant power outage for the purposes of
26 this section.

27 (b) Notwithstanding any other provision of this subtitle, a

1 transmission and distribution utility may:

2 (1) lease and operate facilities that provide
3 temporary emergency electric energy to aid in restoring power to
4 the utility's distribution customers during a significant
5 ~~[widespread]~~ power outage in which:

6 (A) the independent system operator has ordered
7 the utility to shed load; or

8 (B) the utility's distribution facilities are
9 not being fully served by the bulk power system under normal
10 operations; and

11 (2) procure, own, and operate, or enter into a
12 cooperative agreement with other transmission and distribution
13 utilities to procure, own, and operate jointly, transmission and
14 distribution facilities that have a lead time of at least six months
15 and would aid in restoring power to the utility's distribution
16 customers following a significant ~~[widespread]~~ power outage. In
17 this section, long lead time facilities may not be electric energy
18 storage equipment or facilities under Chapter 35, Utilities Code.

19 SECTION 41. Section 40.001(a), Utilities Code, is amended
20 to read as follows:

21 (a) Notwithstanding any other provision of law, except
22 Sections 39.155, 39.157(e), and 39.203, ~~[and 39.904]~~, this chapter
23 governs the transition to and the establishment of a fully
24 competitive electric power industry for municipally owned
25 utilities. With respect to the regulation of municipally owned
26 utilities, this chapter controls over any other provision of this
27 title, except for sections in which the term "municipally owned

1 utility" is specifically used.

2 SECTION 42. Section 40.004, Utilities Code, is amended to
3 read as follows:

4 Sec. 40.004. JURISDICTION OF COMMISSION. Except as
5 specifically otherwise provided in this chapter, the commission has
6 jurisdiction over municipally owned utilities only for the
7 following purposes:

8 (1) to regulate wholesale transmission rates and
9 service, including terms of access, to the extent provided by
10 Subchapter A, Chapter 35;

11 (2) to regulate certification of retail service areas
12 to the extent provided by Chapter 37;

13 (3) to regulate rates on appeal under Subchapters D
14 and E, Chapter 33, subject to Section 40.051(c);

15 (4) to establish a code of conduct as provided by
16 Section 39.157(e) applicable to anticompetitive activities and to
17 affiliate activities limited to structurally unbundled affiliates
18 of municipally owned utilities, subject to Section 40.054;

19 (5) to establish terms and conditions for open access
20 to transmission and distribution facilities for municipally owned
21 utilities providing customer choice, as provided by Section 39.203;

22 (6) to administer ~~the renewable energy credits~~
23 ~~program under Section 39.904(b) and~~ the natural gas energy credits
24 program under Section 39.9044(b);

25 (7) to require reports of municipally owned utility
26 operations only to the extent necessary to:

27 (A) enable the commission to determine the

1 aggregate load and energy requirements of the state and the
2 resources available to serve that load; or

3 (B) enable the commission to determine
4 information relating to market power as provided by Section 39.155;
5 and

6 (8) to evaluate and monitor the cybersecurity
7 preparedness of a municipally owned utility described by Section
8 39.1516(a)(3) or (4).

9 SECTION 43. Section 41.001, Utilities Code, is amended to
10 read as follows:

11 Sec. 41.001. APPLICABLE LAW. Notwithstanding any other
12 provision of law, except Sections 39.155, 39.157(e), and 39.203,
13 [~~and 39.904,~~] this chapter governs the transition to and the
14 establishment of a fully competitive electric power industry for
15 electric cooperatives. Regarding the regulation of electric
16 cooperatives, this chapter shall control over any other provision
17 of this title, except for sections in which the term "electric
18 cooperative" is specifically used.

19 SECTION 44. Section 52.060, Utilities Code, is amended to
20 read as follows:

21 Sec. 52.060. ADMINISTRATIVE FEE OR ASSESSMENT. The
22 commission may prescribe and collect a fee or assessment from local
23 exchange companies necessary to recover the cost to the commission
24 and to the office of activities carried out and services provided
25 under this subchapter and Section 12.203 [~~52.006~~].

26 SECTION 45. Section 13.4132, Water Code, is amended by
27 adding Subsection (b-1) to read as follows:

1 (b-1) Notwithstanding Section 5.505, the term of an
2 emergency order issued under this section by the utility commission
3 or the commission may not exceed 360 days. The emergency order may
4 be renewed:

5 (1) once for a period not to exceed 360 days; or

6 (2) if the utility is undergoing a sale, transfer,
7 merger, consolidation, or acquisition required to be reported to
8 the utility commission under Section 13.301, for a reasonable time
9 until the sale, transfer, merger, consolidation, or acquisition is
10 complete.

11 SECTION 46. (a) The following provisions are repealed:

12 (1) Section 304.201, Business & Commerce Code;

13 (2) Section 31.003, Utilities Code;

14 (3) Section 39.155(b), Utilities Code;

15 (4) Section 39.904, Utilities Code;

16 (5) Section 39.916(g), Utilities Code;

17 (6) Section 39.918(k), Utilities Code; and

18 (7) Section 52.006, Utilities Code.

19 (b) Section 34, Chapter 426 (S.B. 3), Acts of the 87th
20 Legislature, Regular Session, 2021, is repealed.

21 SECTION 47. The Public Utility Commission of Texas is not
22 required to conduct the first review of an allowance under Section
23 35.004(d-3), Utilities Code, as added by this Act, until the fifth
24 year after the adoption of the rules required by Section
25 35.004(d-1), Utilities Code, as added by this Act.

26 SECTION 48. The Public Utility Commission of Texas shall
27 adopt rules as necessary to implement the changes in law made by

1 this Act to Section 35.004, Utilities Code, not later than the 180th
2 day after the effective date of this Act.

3 SECTION 49. The changes in law made by this Act to Section
4 35.004, Utilities Code, apply only to an electric generation
5 facility that executes a standard generator interconnection
6 agreement with a transmission-owning utility after December 31,
7 2025.

8 SECTION 50. (a) The presiding officer of the Public Utility
9 Commission of Texas shall designate a commissioner to serve a term
10 on the governing body of the independent organization certified
11 under Section 39.151, Utilities Code, for the ERCOT power region
12 that begins January 1, 2024, to comply with Section 39.151(g-1),
13 Utilities Code, as amended by this Act.

14 (b) Except as provided by Subsection (c) of this section,
15 Section 12.059, Utilities Code, as amended by this Act, applies to a
16 member of the Public Utility Commission of Texas appointed before,
17 on, or after the effective date of this Act.

18 (c) A member of the Public Utility Commission of Texas who,
19 before the effective date of this Act, completed the training
20 program required by Section 12.059, Utilities Code, as that law
21 existed before the effective date of this Act, is only required to
22 complete additional training on the subjects added by this Act to
23 the training program required by Section 12.059, Utilities Code. A
24 commission member described by this subsection may not vote,
25 deliberate, or be counted as a member in attendance at a meeting of
26 the commission held on or after December 1, 2023, until the member
27 completes the additional training.

1 SECTION 51. The Public Utility Commission of Texas shall
2 require the independent organization certified under Section
3 39.151, Utilities Code, for the ERCOT power region to implement the
4 program required by Section 39.159(d), Utilities Code, as added by
5 this Act, not later than December 1, 2024.

6 SECTION 52. (a) The Public Utility Commission of Texas
7 shall prepare the portions of the report required by Section
8 39.1591(2), Utilities Code, as added by this Act, only for reports
9 due on or after December 1, 2024.

10 (b) The Public Utility Commission of Texas shall implement
11 Section 39.1592, Utilities Code, as added by this Act, not later
12 than December 1, 2027.

13 (c) Notwithstanding Subsection (b) of this section and the
14 deadline provided by Section 39.1592(b), Utilities Code, as added
15 by this Act, an owner or operator of an electric generation facility
16 to which Section 39.1592(b), Utilities Code, as added by this Act,
17 applies shall make the first demonstration required by that
18 subsection not later than January 1, 2028.

19 (d) The Public Utility Commission of Texas and the
20 independent organization certified under Section 39.151, Utilities
21 Code, for the ERCOT power region shall:

22 (1) conduct a study on whether implementing an
23 alternative to the single market clearing price for energy,
24 ancillary services, and other products would reduce costs to
25 residential and small commercial customers or their load-serving
26 entities, such as paying generators the price bid and not the
27 additional amounts up to the highest cost generator needed to clear

1 the market;

2 (2) analyze:

3 (A) whether cost savings can be achieved for
4 consumers, or load-serving entities serving residential and small
5 commercial consumers, by:

6 (i) limiting generators that have received
7 state or federal subsidies to receiving the price bid by that type
8 of generator; or

9 (ii) limiting a generator to receiving the
10 price bid by that generator; and

11 (B) if a pay as bid mechanism is used or a single
12 market clearing price mechanism is retained, whether
13 non-dispatchable and dispatchable generation facilities should bid
14 into separate markets for ERCOT power region products such that the
15 generation facilities are directly competing against technologies
16 with similar attributes; and

17 (3) report the results of the study and analysis
18 conducted under this subsection to the legislature not later than
19 December 1, 2025.

20 SECTION 53. (a) Except as provided by Subsection (b) of
21 this section, notwithstanding the repeal by this Act of Section
22 [39.904](#), Utilities Code, the Public Utility Commission of Texas by
23 rule shall adopt a program to apply that section as it existed
24 immediately before the effective date of this Act, and to apply
25 other statutes that referred to that section immediately before the
26 effective date of this Act, as if that section had not been repealed
27 by this Act and the other statutes that referred to that section had

1 not been repealed or amended by this Act.

2 (b) Under Subsection (a) of this section, the statutes
3 described in that subsection must be applied as if Section 39.904
4 were applicable only to renewable energy technologies that
5 exclusively rely on an energy source that is naturally regenerated
6 over a short time and derived directly from the sun.

7 (c) This section expires September 1, 2025, and the Public
8 Utility Commission of Texas shall phase out the program required by
9 Subsection (a) of this section so that it terminates on that date.

10 SECTION 54. The changes in law made by this Act to Section
11 15.023, Utilities Code, apply only to a violation committed on or
12 after the effective date of this Act. A violation committed before
13 the effective date of this Act is governed by the law in effect when
14 the violation was committed, and the former law is continued in
15 effect for that purpose.

16 SECTION 55. It is the intent of the 88th Legislature,
17 Regular Session, 2023, that the amendments made by this Act be
18 harmonized with another Act of the 88th Legislature, Regular
19 Session, 2023, relating to nonsubstantive additions to and
20 corrections in enacted codes.

21 SECTION 56. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 1500 was passed by the House on April 19, 2023, by the following vote: Yeas 140, Nays 1, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1500 on May 25, 2023, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1500 on May 28, 2023, by the following vote: Yeas 140, Nays 1, 2 present, not voting.

Chief Clerk of the House

H.B. No. 1500

I certify that H.B. No. 1500 was passed by the Senate, with amendments, on May 24, 2023, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1500 on May 28, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor